

Panaji, 7th February, 2023 (Magha 18, 1944)

SERIES II No. 44

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

EXTRAORDINARY

No. 2

GOVERNMENT OF GOA

Department of Finance

Office of the Commissioner of Commercial Taxes

—
No. CCT/26-4/2022-23/F/3300

Subject: Clarification to deal with difference in Input Tax Credit (ITC) availed in Form GSTR-3B as compared to that detailed in Form GSTR-2A for FY 2017-18 and 2018-19—reg.

Ref.: Circular No. 183/15/2022-GST dated 27th December, 2022 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

CIRCULAR

(No. 14/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes.

Panaji, 7th February, 2023.

Circular No. 183/15/2022-GST

F. No. CBIC-20001/2/2022-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 27th December, 2022.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19—reg.

Section 16 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") provides for eligibility and conditions for availing Input Tax Credit (ITC). During the initial period or implementation of GST, during the financial years 2017-18 and 2018-19, in many cases, the suppliers have failed to furnish the correct details of outward supplies in their FORM GSTR-1, which has led to certain deficiencies or discrepancies in FORM GSTR-2A of their recipients. However, the concerned recipients may have availed input tax credit on the said supplies in their returns in FORM GSTR-3B. The discrepancies between the amount of ITC availed by the registered persons in their returns in FORM GSTR-3B and the amount as available in their FORM

GSTR-2A are being noticed by the tax officers during proceedings such as scrutiny/audit/investigation etc. due to such credit not flowing to FORM GSTR-2A of the said registered persons. Such discrepancies are considered by the tax officers as representing ineligible ITC availed by the registered persons, and are being flagged seeking explanation from the registered persons for such discrepancies and/or for reversal of such ineligible ITC.

2. It is mentioned that FORM GSTR-2A could not be made available to the taxpayers on the common portal during the initial stages of implementation of GST. Further, restrictions regarding availment of ITC by the registered persons upto certain specified limit beyond available as per FORM GSTR-2A were provided under Rule 36(4) of Central Goods and Services Tax Rules, 2017

(hereinafter referred to as "CGST Rules") only with effect from 9th October, 2019. However, the availability of ITC was subjected to restrictions and conditions specified in Section 16 of CGST Act from 1st July, 2017 itself. In view of this, various representations have been received from the trade as well as the tax authorities, seeking clarification regarding the manner of dealing with such discrepancies between the amount of ITC availed by the registered persons in their FORM GSTR-3B and the amount as available in their FORM GSTR-2A during FY 2017-18 and FY 2018-19.

3. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under Section 168(1) of the CGST Act, hereby clarifies as follows:

Sr. No.	Scenario	Clarification
a.	Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-3B of the recipients.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
b.	Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but has failed to report a particular supply in FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the recipient.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
c.	Where supplies were made to a registered person and invoice is issued as per Rule 46 of CGST Rules containing GSTIN of the recipient, but supplier has wrongly reported the said supply as B2C supply, instead of B2B supply, in his FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the said registered person.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
d.	Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but he has declared the supply with wrong GSTIN of the recipient in FORM GSTR-1.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below. In addition, the proper officer of the actual recipient shall intimate the concerned jurisdictional tax authority of the registered person, whose GSTIN has been mentioned wrongly, that ITC on those transactions is required to be disallowed, if claimed by such recipients in their FORM GSTR-3B. However, allowance of ITC to the actual recipient shall not depend on the completion of the action by the tax authority of such registered person, whose GSTIN has been mentioned wrongly, and such action will be pursued as an independent action.

4. The proper officer shall first seek the details from the registered person regarding all the invoices on which ITC has been availed by the registered person in his FORM GSTR 3B but which are not reflecting in his FORM GSTR 2A. He shall then ascertain fulfillment of the following conditions of Section 16 of CGST Act in respect of the input tax credit availed on such invoices by the said registered person:

- i) that he is in possession of a tax invoice or debit note issued by the supplier or such other tax paying documents;
- ii) that he has received the goods or services or both;
- iii) that he has made payment for the amount towards the value of supply, along with tax payable thereon, to the supplier.

Besides, the proper officer shall also check whether any reversal of input tax credit is required to be made in accordance with Section 17 or Section 18 of CGST Act and also whether the said input tax credit has been availed within the time period specified under sub-section (4) of Section 16 of CGST Act.

4.1 In order to verify the condition of Clause (c) of sub-section (2) of Section 16 of CGST Act that tax on the said supply has been paid by the supplier, the following action may be taken by the proper officer:

4.1.1 In case, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year exceeds Rs. 5 lakh, the proper officer shall ask the registered person to produce a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR 3B. Certificate issued by CA or CMA shall contain UDIN. UDIN of the certificate issued by CAs can be verified from ICAI website <https://udin.icai.org/search-udin> and that issued by CMAs can be verified from ICMAI website <https://eicmai.in/udin/VerifyUDIN.aspx>.

4.1.2 In cases, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year is upto Rs. 5 lakh, the proper officer shall ask the claimant to produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.

4.2 However, it may be noted that for the period FY 2017-18, as per proviso to Section 16(4) of CGST Act, the aforesaid relaxations shall not be applicable to the claim of ITC made in the FORM GSTR-3B return filed after the due date of furnishing return for the month of September, 2018 till the due date of furnishing return for March, 2019, if supplier had not furnished details of the said supply in his FORM GSTR-1 till the due date of furnishing FORM GSTR 1 for the month of March, 2019.

5. It may also be noted that the clarifications given hereunder are case specific and are applicable to the bona fide errors committed in reporting during FY 2017-18 and 2018-19.

Further, these guidelines are clarificatory in nature and may be applied as per the actual facts and circumstances of each case and shall not be used in the interpretation of the provisions of law.

6. These instructions will apply only to the ongoing proceedings in scrutiny/audit/investigation, etc. for FY 2017-18 and 2018-19 and not to the completed proceedings. However, these instructions will apply in those cases for FY 2017-18 and 2018-19 where any adjudication or appeal proceedings are still pending.

7. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2022-23/F/3301

Subject: Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of Section 12 of the Integrated Goods and Services Tax Act, 2017-reg.

Ref.: Circular No. 184/16/2022-GST dated 27th December, 2022 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 15/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of

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(EXTRAORDINARY No. 2)

7TH FEBRUARY, 2023

the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes.

Panaji, 7th February, 2023.

Circular No. 184/16/2022-GST

F. No. CBIC-20001/2/2022-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 27th December, 2022.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of Section 12 of the Integrated Goods and Services Tax Act, 2017-reg.

Attention is invited to sub-section (8) of Section 12 of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act") which provides for the place of supply of services by way of transportation of goods, including by mail or courier, where location of the supplier as well as the recipient of services is in India. As per Clause (a) of the aforesaid sub-section, the place of supply of services by way of transportation of goods, including by mail or courier, to a registered person shall be the location of such registered person. However, the proviso to the aforesaid sub-section which was inserted vide the Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01-02-2019 provides that where the transportation of goods is to a place outside India, the place of supply of the said service shall be the place of destination of such goods. In such cases, as the place of supply of services, as per the proviso to sub-section (8) of Section 12 of IGST Act, is the concerned foreign destination and not the State where the recipient is registered under GST, doubts are being raised regarding the availability of input tax credit of the said services to the recipient located in India.

2. In order to clarify this issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

Sr. No.	Issue	Clarification
1.	In case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, what would be the place of supply of the said services?	<p>The place of supply of services by way of transportation of goods, including by mail or courier, where both the supplier and the recipient are located in India, is determined in terms of sub-section (8) of Section 12 of the IGST Act which reads as follows:</p> <p><i>"(8) The place of supply of services by way of transportation of goods, including by mail or courier to,—</i></p> <p><i>(a) a registered person, shall be the location of such person;</i></p> <p><i>(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation:</i></p> <p><i>Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods"</i></p> <p>Hence, in case of supply of services by way of transportation of goods, including by mail or</p>

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courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, the place of supply is the concerned foreign destination where the goods are being transported, in accordance with the proviso to the sub-section (8) of Section 12 of IGST Act, which was inserted vide the Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01-02-2019.

Illustration:

X is a person registered under GST in the State of West Bengal who intends to export goods to a person Y located in Singapore. X avails the services for transportation of goods by air to Singapore from an air cargo operator Z, who is also registered under GST in the State of West Bengal.

In this case, the place of supply of the services provided by Z to X is the place of destination of goods i.e., Singapore, in terms of the proviso to sub-section (8) of Section 12 of IGST Act.

2. In the case given in Sl. No. 1, whether the supply of services will be treated as inter-State supply or intra-State supply?

The aforesaid supply of services would be considered as inter-State supply in terms of sub-section (5) of Section 7 of the IGST Act since the location of the supplier is in India and the place of supply is outside India. Therefore, Integrated Tax (IGST) would be chargeable on the said supply of services.

In respect of the illustration given in Sl. No. 1 above, Z would charge IGST from X in terms of sub-section (5) of Section 7 of the IGST Act, for supply of services by way of transportation of goods.

3. In the case given in Sl. No. 1, whether the recipient of service of transportation of goods would be eligible to avail input tax credit in respect of the said input service of transportation of goods?

Section 16 of the CGST Act lays down the eligibility and conditions for taking input tax credit whereas, Section 17 of the CGST Act provides for apportionment of credit and blocked credits under circumstances specified therein. The said provisions of law do not restrict availment of input tax credit by the recipient located in India if the place of supply of the said input service is outside India. Thus, the recipient of service of transportation of goods shall be eligible to avail input tax credit in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in Section 16 and 17 of the CGST Act.

In the illustration given in Sl. No. 1 above, X would be eligible to take input tax credit of IGST in respect of supply of services received by him from Z, subject to the fulfilment of other conditions laid down in Section 16 and 17 of the CGST Act

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4. In the case mentioned at Sl. No. 1, what State Code has to be mentioned by the supplier of the said service of transportation of goods, where the transportation of goods is to a place outside India, while reporting the said supply in FORM GSTR-1?

The supplier of services shall report the place of supply of such service by selecting State Code as '96-Foreign Country' from the list of codes in the drop-down menu available on the portal in Form GSTR-1.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2022-23/F/3302

Subject: Clarification with regard to applicability of provisions of Section 75(2) of Central Goods and Services Tax Act, 2017 and its effect on limitation-reg.

Ref: Circular No. 185/17/2022-GST dated 27th December, 2022 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 16/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes.
Panaji 7th February, 2023.

Circular No. 185/17/2022-GST

F. No. CBIC-20001/2/2022
Government of India
Ministry of Finance
Department of Revenue

Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 27th December, 2022.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Subject: Clarification with regard to applicability of provisions of Section 75(2) of Central Goods and Services Tax Act, 2017 and its effects on limitation-reg.

Madam/Sir,

Attention is invited to sub-section (2) of Section 75 of Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") which provides that in cases where the appellate authority or appellate tribunal or court concludes that the notice issued by proper officer under sub-section (1) of Section 74 is not sustainable for reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established against the person to whom such notice was issued (hereinafter called as "noticee"), then the proper officer shall determine the tax payable by the noticee, deeming as if the notice was issued under sub-section (1) of Section 73.

2. Doubts have been raised by the field formations seeking clarification regarding the time limit within which the proper officer is required to re-determine the amount of tax payable considering notice to be issued under sub-section (1) of Section 73, specially in cases where time limit for issuance of order as per sub-section (10) of Section 73 has already been over. Further, doubts have also been expressed regarding the methodology for computation of such amount payable by the noticee, deeming the notice to be issued under sub-section (1) of Section 73.

3. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168(1) of the CGST Act, hereby clarifies the issues as under:

Sr. No.	Issue	Clarification
1	2	3
1.	In some of the cases where the show cause notice has been issued by the proper officer to a noticee under sub-section (1) of Section 74 of CGST Act for demand of tax not paid/short paid or erroneous refund or input tax credit wrongly availed or utilized, the appellate authority or appellate tribunal or the court concludes that the said notice is not sustainable under sub-section (1) of Section 74 of CGST Act for the reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established against the noticee and directs the proper officer to re-determine the amount of tax payable by the noticee, deeming the notice to have been issued under sub-section (1) of Section 73 of CGST Act, in accordance with the provisions of sub-section (2) of Section 75 of CGST Act. What would be the time period for re-determination of the tax, interest and penalty payable by the noticee in such cases?	<ul style="list-style-type: none"> Sub-section (3) of Section 75 of CGST Act provides that an order, required to be issued in pursuance of the directions of the appellate authority or appellate tribunal or the court, has to be issued within two years from the date of communication of the said direction.
2.	How the amount payable by the noticee, deeming the notice to have been issued under sub-section (1) of Section 73, shall be re-computed/re-determined by the proper officer as per provisions of sub-section (2) of Section 75?	<ul style="list-style-type: none"> Accordingly, in cases where any direction is issued by the appellate authority or appellate tribunal or the Court to re-determine the amount of tax payable by the noticee by deeming the notice to have been issued under sub-section (1) of Section 73 of CGST Act in accordance with the provisions of sub-section (2) of Section 75 of the said Act, the proper officer is required to issue the order of redetermination of tax, interest and penalty payable within the time limit as specified in under sub-section (3) of Section 75 of the said Act, i.e. within a period of two years from the date of communication of the said direction by appellate authority or appellate tribunal or the court, as the case may be. In cases where the amount of tax, interest and penalty payable by the noticee is required to be re-determined by the proper officer in terms of sub-section (2) of Section 75 of CGST Act, the demand would have to be re-determined keeping in consideration the provisions of sub-section (2) of Section 73, read with sub-section (10) of Section 73 of CGST Act. Sub-section (1) of Section 73 of CGST Act provides for issuance of a show cause notice by the proper officer for tax not paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized, in cases which do not involve fraud or wilful misstatement or suppression of facts to evade tax. Sub-section (2) of Section 73 of CGST Act provides that such show cause notice shall be

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issued at least 3 months prior to the time limit specified in sub-section 10 of Section 73 for issuance of order. As per sub-section (9) of Section 73 of CGST Act, the proper officer is required to determine the tax, interest and penalty due from the noticee and issue an order. As per sub-section (10) of Section 73 of CGST Act, an order under sub-section (9) of Section 73 has to be issued by the proper officer within three years from the due date for furnishing of annual return for the financial year in respect of which tax has not been paid or short paid or input tax credit has been wrongly availed or utilized or from the date of erroneous refund.

- It transpires from a combined reading of these provisions that in cases which do not involve fraud or willful-misstatement or suppression of facts to evade payment of tax, the show cause notice in terms of sub-section (1) of Section 73 of CGST Act has to be issued within 2 years and 9 months from the due date of furnishing of annual return for the financial year to which such tax not paid or short paid or input tax credit wrongly availed or utilized relates, or within 2 years and 9 months from the date of erroneous refund.
- Therefore, in cases where the proper officer has to re-determine the amount of tax, interest and penalty payable deeming the notice to have been issued under sub-section (1) of Section 73 of CGST Act in terms of sub-section (2) of Section 75 of the said Act, the same can be re-determined for so much amount of tax short paid or not paid, or input tax credit wrongly availed or utilized or that of erroneous refund, in respect of which show cause notice was issued within the time limit as specified under sub-section (2) of Section 73 read with sub-section (10) of Section 73 of CGST Act. Thus, only the amount of tax short paid or not paid, or input tax credit wrongly availed or utilized, along with interest and penalty payable, in terms of Section 73 of CGST Act relating to such financial years can be re-determined, where show cause notice was issued within 2 years and 9 months from the due date of furnishing of annual return for the respective financial year. Similarly, the amount of tax payable on account of erroneous refund along with interest and penalty payable can be re-determined only where show cause notice was issued within 2 years and 9 months from the date of erroneous refund.

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- In case, where the show cause notice under sub-section (1) of Section 74 was issued for tax short paid or tax not paid or wrongly availed or utilized input tax credit beyond a period of 2 years and 9 months from the due date of furnishing of the annual return for the financial year to which such demand relates to, and the appellate authority concludes that the notice is not sustainable under sub-section (1) of Section 74 of CGST Act thereby deeming the notice to have been issued under sub-section (1) of Section 73, the entire proceeding shall have to be dropped, being hit by the limitation of time as specified in Section 73. Similarly, where show cause notice under sub-section (1) of Section 74 of CGST Act was issued for erroneous refund beyond a period of 2 years and 9 months from the date of erroneous refund, the entire proceeding shall have to be dropped.
- In cases, where the show cause in terms of sub-section (1) of Section 74 of CGST Act was issued for tax short paid or not paid tax or wrongly availed or utilized input tax credit or on account of erroneous refund within 2 years and 9 months from the due date of furnishing of the annual return for the said financial year, to which such demand relates to, or from the date of erroneous refund, as the case may be, the entire amount of the said demand in the show cause notice would be covered under re-determined amount.
- Where the show cause notice under sub-section (1) of Section 74 was issued for multiple financial years, and where notice had been issued before the expiry of the time period as per sub-section (2) of Section 73 for one financial year but after the expiry of the said due date for the other financial years, then the amount payable in terms of Section 73 shall be re-determined only in respect of that financial year for which show cause notice was issued before the expiry of the time period as specified in sub-section (2) of Section 73.

4. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

5. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal Commissioner (GST).

OFFICIAL GAZETTE — GOVT. OF GOA

SERIES II No. 44

(EXTRAORDINARY No. 2)

7TH FEBRUARY, 2023

No. CCT/26-4/2022-23/F/3303

Subject: Clarification on various issue pertaining to GST-reg.

Ref.: Circular No. 186/18/2022-GST dated 27th December, 2022 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 17/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes.

Panaji, 7th February, 2023.

Circular No. 186/18/2022-GST

F. No. CBIC-20001/2/2022-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 27th December, 2022.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification on various issue pertaining to GST-reg.

Representations have been received from the field formations seeking clarification on certain issues with respect to—

i. taxability of No Claim Bonus offered by Insurance companies;

ii. applicability of e-invoicing w.r.t. an entity.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

Sr. No.	Issue	Clarification
1	2	3
Taxability of No Claim Bonus offered by Insurance companies		

1. Whether the deduction on account of No Claim Bonus allowed by the insurance company from the insurance premium payable by the insured, can be considered as consideration for the supply provided by the insured to the insurance company, for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s)?

As per practice prevailing in the insurance sector, the insurance companies deduct No Claim Bonus from the gross insurance premium amount, when no claim is made by the insured person during the previous insurance period(s). The customer/insured procures insurance policy to indemnify himself from any loss/injury as per the terms of the policy, and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of No Claim Bonus.

It is, therefore, clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company.

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2.	Whether No Claim Bonus provided by the insurance company to the insured can be considered as an admissible discount for the purpose of determination of value of supply of insurance service provided by the insurance company to the insured?	<p>As per Clause (a) of sub-section (3) of Section 15 of the CGST Act, value of supply shall not include any discount which is given before or at the time of supply if such discount has been duly recorded in the invoice issued in respect of such supply.</p> <p>The insurance companies make the disclosure of the fact of availability of discount in form of No Claim Bonus, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the No Claim Bonus in the invoices also. The pre-disclosure of NCB amount in the policy documents and specific mention of the discount in form of No Claim Bonus in the invoice is in consonance with the conditions laid down for deduction of discount from the value of supply under Clause (a) of sub-section (3) of Section 15 of the CGST Act.</p> <p>It is, therefore, clarified that No Claim Bonus (NCB) is a permissible deduction under Clause (a) of sub-section (3) of Section 15 of the CGST Act for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured. Accordingly, where the deduction on account of No Claim Bonus is provided in the invoice issued by the insurer to the insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of No Claim Bonus mentioned on the invoice.</p>

Clarification on applicability of e-invoicing w.r.t. an entity

3.	Whether the exemption from mandatory generation of e-invoices in terms of Notification No. 13/2020-Central Tax, dated 21st March, 2020, as amended, is available for the entity as whole, or whether the same is available only in respect of certain supplies made by the said entity?	<p>In terms of Notification No. 13/2020-Central Tax dated 21st March, 2020, as amended, certain entities/sectors have been exempted from mandatory generation of e-invoices as per sub-rule (4) of rule 48 of Central Goods and Services Tax Rules, 2017. It is hereby clarified that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.</p>
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Illustration: A Banking Company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice in terms of Notification No. 13/2020-Central Tax, dated 21st March,

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2020, as amended, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal) Principal Commissioner (GST).

No. CCT/26-4/2022-23/F/3304

Subject: Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016—reg.

Ref.: Circular No. 187/19/2022-GST dated 27th December, 2022 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 18/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes.

Panaji, 7th February, 2023.

Circular No. 187/19/2022-GST

F. No. CBIC-20001/2/2022-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 27th December, 2022.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016—reg.

Attention is invited to Circular No. 134/04/2020-GST dated 23rd March, 2020, wherein it was clarified that no coercive action can be taken against the corporate debtor with respect to the dues of the period prior to the commencement of Corporate Insolvency Resolution Process (CIRP). Such dues will be treated as 'operational debt' and the claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC.

2. Representations have been received from the trade as well as tax authorities, seeking clarification regarding the modalities for implementation of the order of the adjudicating authority under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC") with respect to demand for recovery against such corporate debtor under Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") as well under the existing laws and the treatment of such statutory dues under CGST Act and existing laws, after finalization of the proceedings under IBC.

3. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under Section 168(1) of the CGST Act, hereby clarifies as follows.

4.1 Section 84 of CGST Act reads as follows:

“Section 84—Continuation and validation of certain recovery proceedings.—

Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act (hereafter in this section referred to as “Government dues”), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then—

(b) where such Government dues are reduced in such appeal, revision or in other proceedings—

(i) it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;

(ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;

(iii) any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.”

4.2 As per Section 84 of CGST Act, if the Government dues against any person under CGST Act are reduced as a result of any appeal, revision or other proceedings in respect of such Government dues, then an intimation for such reduction of Government dues has to be given by the Commissioner to such person and to the appropriate authority with whom the recovery proceedings are pending. Further, recovery proceedings can be continued in relation to such reduced amount of Government dues.

4.3 The word ‘other proceedings’ is not defined in CGST Act. It is to be mentioned that the adjudicating authorities and appellate authorities under IBC are quasi-judicial authorities constituted to deal with civil disputes pertaining to insolvency and bankruptcy. For instance, under IBC, NCLT serves as an adjudicating authority for insolvency proceedings which are initiated on application from any stakeholder of the entity like the film, creditors, debtors, employees etc. and passes an order approving the resolution plan. As the proceedings conducted under IBC also adjudicate the Government dues pending under the CGST Act or under existing

laws against the corporate debtor, the same appear to be covered under the term ‘other proceedings’ in Section 84 of CGST Act.

5. Rule 161 of Central Goods and Services Tax Rules, 2017 prescribes **FORM GST DRC-25** for issuing intimation for such reduction of demand specified under Section 84 of CGST Act. Accordingly, in cases where a confirmed demand for recovery has been issued by the tax authorities for which a summary has been issued in **FORM GST DRC-07/DRC 07A** against the corporate debtor, and where the proceedings have been finalised against the corporate debtor under IBC reducing the amount of statutory dues payable by the corporate debtor to the Government under CGST Act or under existing laws, the jurisdictional Commissioner shall issue an intimation in **FORM GST DRC-25** reducing such demand, to the taxable person or any other person as well as the appropriate authority with whom recovery proceedings are pending.

6. It is requested that suitable trade notices may be issued to publicize the contents of this circular.

7. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal), Principal Commissioner (GST).

No. CCT/26-4/2022-23/F/3305

Subject: Prescribing manner of filing an application for refund by unregistered persons-reg.

Ref.: Circular No. 188/20/2022-GST dated 27th December, 2022 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 19/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes.

Panaji, 7th February, 2023.

Circular No. 188/20/2022-GST

F. No. CBIC-20001/2/2022-GST

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes and Customs

GST Policy Wing

New Delhi, Dated the 27th December, 2022.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioners of Central Tax (All).

The Principal Directors General/Directors General (All).

Madam/Sir,

Subject: Prescribing manner of filing an application for refund by unregistered persons-reg.

Instances have been brought to the notice where the unregistered buyers, who had entered into an agreement/contract with a builder for supply of services of construction of flats/building, etc. and had paid the amount towards consideration for such service, either fully or partially, along with applicable tax, had to get the said contract/agreement cancelled subsequently due to non-completion or delay in construction activity in time or any other reasons. In a number of such cases, the period for issuance of credit note on account of such cancellation of service under the provisions of Section 34 of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as 'CGST Act') may already have got expired by that time. In such cases, the supplier may refund the amount to the buyer, after deducting the amount of tax collected by him from the buyer.

1.2 Similar situation may arise in cases of long-term insurance policies where premium for the entire period of term of policy is paid upfront along with applicable GST and the policy is subsequently required to be terminated prematurely due to some reasons. In some cases, the time period for issuing credit note under the provisions of Section 34 of the CGST Act may have already expired and therefore, the insurance companies may refund only the proportionate premium net off GST.

1.3 Representations have been received requesting for providing a facility to such unregistered buyers/recipients for claiming refund of amount of tax borne by them in the event of cancellation of the contract/agreement for supply of services of construction of flat/building or on termination of long-term insurance policy.

2. It would be pertinent to mention that sub-section (1) of Section 54 of the CGST Act already provides that any person can claim refund of any tax and interest, if any, paid on such tax or any other amount paid by him, by making an application before the expiry of two years from the relevant date in such form and manner as may be prescribed. Further, in terms of Clause (e) of sub-section (8) of Section 54 of the CGST Act, in cases where the unregistered person has borne the incidence of tax and not passed on the same to any other person, the said refund shall be paid to him instead of being credited to Consumer Welfare Fund (CWF).

2.1 In order to enable such unregistered person to file application for refund under sub-section (1) of Section 54, in cases where the contract/agreement for supply of services of construction of flat/building has been cancelled or where long-term insurance policy has been terminated, a new functionality has been made available on the common portal which allows unregistered persons to take a temporary registration and apply for refund under the category '*Refund for Unregistered person*'. Further, sub-rule (2) of Rule 89 of Central Goods and Service Tax Rules, 2017 (hereinafter referred to as 'CGST Rules') has been amended and statement 8 has been inserted in FORM GST RFD-01 vide Notification No. 26/2022-Central Tax dated 26-12-2022 to provide for the documents required to be furnished along with the application of refund by the unregistered persons and the statement to be uploaded along with the said refund application.

3. In order to ensure uniformity in the implementation of the above provisions of the law across field formations, the Board, in exercise of its powers conferred by Section 168 (1) of the CGST Act, hereby clarifies the following:

4. Filing of refund application:

4.1. The unregistered person, who wants to file an application for refund under sub-section (1) of Section 54 of CGST Act, in cases where the contract/agreement for supply of services of construction of flat/building has been cancelled or where long-term insurance policy has been terminated, shall obtain a temporary registration on the common portal using his Permanent Account Number (PAN). While doing so, the unregistered person shall select the same State/UT where his/her supplier, in respect of whose invoice refund is to be claimed, is registered. Thereafter, the unregistered person would be required to undergo Aadhaar authentication in terms of provisions of Rule 10B of the CGST Rules.

Further, the unregistered person would be required to enter his bank account details in which he seeks to obtain the refund of the amount claimed. The applicant shall provide the details of the bank account which is in his name and has been obtained on his PAN.

4.2 The application for refund shall be filed in **FORM GST RFD-01** on the common portal under the category '*Refund for unregistered person*'. The applicant shall upload statement 8 (in pdf format) and all the requisite documents as per the provisions of sub-rule (2) of Rule 89 of the CGST Rules. The refund amount claimed shall not exceed the total amount of tax declared on the invoices in respect of which refund is being claimed. Further, the applicant shall also upload the certificate issued by the supplier in terms of Clause (kb) of sub-rule (2) of Rule 89 of the CGST Rules along with the refund application. The applicant shall also upload any other document(s) to support his claim that he has paid and borne the incidence of tax and that the said amount is refundable to him.

4.3 Separate applications for refund have to be filed in respect of invoices issued by different suppliers. Further, where the suppliers, in respect of whose invoices refund is to be claimed, are registered in different States/UTs, the applicant shall obtain temporary registration in the each of the concerned States/UTs where the said supplier are registered.

4.4 Where the time period for issuance of creditnote under Section 34 of the CGST Act has not expired at the time of cancellation/termination of agreement/contract for supply of services, the concerned suppliers can issue credit note to the unregistered person. In such cases, the supplier would be in a position to also pay back the amount of tax collected by him from the unregistered person and therefore, there will be no need for filing refund claim by the unregistered persons in these cases. Accordingly, the refund claim can be filed by the unregistered persons only in those cases where at the time of cancellation/termination of agreement/contract for supply of services, the time period for issuance of credit note under Section 34 of the CGST Act has already expired.

5. Relevant date for filing of refund:

As per sub-section (1) of Section 54 of the CGST Act, time period of two years from the relevant date has been specified for filing an application of refund.

Further, the relevant date in respect of cases of refund by a person other than supplier is the date of receipt of goods or services or both by such person in terms of provisions of Clause (g) in Explanation (2) under Section 54 of the CGST Act. However, in respect of cases where the supplier and the unregistered person (recipient) have entered into a long-term contract/agreement for the supply, with the provision of making payment in advance or in instalments, for example-construction of flats or long-term insurance policies, if the contract is cancelled/terminated before completion of service for any reason, there may be no date of receipt of service, to the extent supply has not been made/rendered. Therefore, in such type of cases, it has been decided that for the purpose of determining relevant date in terms of Clause (g) of Explanation (2) under Section 54 of the CGST Act, date of issuance of letter of cancellation of the contract/agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant.

6. Minimum refund amount:

Sub-section (14) of Section 54 of the CGST Act provides that no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if amount is less than one thousand rupees. Therefore, no refund shall be claimed if the amount is less than one thousand rupees.

7. The proper officer shall process the refund claim filed by the unregistered person in a manner similar to other RFD-01 claims. The proper officer shall scrutinize the application with respect to completeness and eligibility of the refund claim to his satisfaction and issue the refund sanction order in **FORM GST RFD-06** accordingly. The proper officer shall also upload a detailed speaking order along with the refund sanction order in **FORM GST RFD-06**.

7.1 In cases where the amount paid back by the supplier to the unregistered person on cancellation/termination of agreement/contract for supply of services is less than amount paid by such unregistered person to the supplier, only the proportionate amount of tax involved in such amount paid back shall be refunded to the unregistered person.

8. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

9. Difficulty, if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Sanjay Mangal), Principal Commissioner (GST).

OFFICIAL GAZETTE — GOVT. OF GOA

SERIES II No. 44

(EXTRAORDINARY No. 2)

7TH FEBRUARY, 2023

No. CCT/26-4/2022-23/F/3306

Subject: Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 48th meeting held on 17th December, 2022-reg.

Ref.: Circular No. 189/01/2023-GST dated 13th January, 2023 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 20/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes.

Panaji, 7th February, 2023.

Circular No. 189/01/2023-GST

F. No. CBIC-190354/316/2022-TRU Section-CBEC
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

North Block, New Delhi, Dated 13th January, 2023.

To,

The Principal Chief Commissioners/Principal Directors General,

The Chief Commissioners/Directors General,

The Principal Commissioners/Commissioners of Central Excise & Central Tax.

Madam/Sir,

Subject: Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 48th meeting held on 17th December, 2022-reg.

Based on the recommendations of the GST Council in its 48th meeting held on 17th December, 2022, clarifications, with reference to GST levy, related to the following are being issued through this circular:

2. Rab-classifiable under Tariff heading 1702:

2.1 Representation has been received seeking clarification regarding the classification of "Rab". It has been stated that under the U.P. Rab (Movement Control Order), 1967, "Rab" means '*massecuite prepared by concentrating sugarcane juice on open pan furnaces, and includes Rab Galawat and Rab Salawat, but does not include khandsari molasses or lauta gur.*' Although, a product of sugarcane, Rab exists in semi-solid/liquid form, and is thus not covered under heading 1701. The Hon'ble Supreme Court in its order in *Krishi Utpadan Mandi Samiti vs. M/s. Shankar Industries and others* [1993 SCR (1) 1037] has distinguished Rab from molasses. Thus, Rab being distinguishable from molasses is not classifiable under heading 1703.

2.2 Accordingly, it is hereby clarified that Rab is appropriately classifiable under heading 1702 attracting GST rate of 18% (S. No. 11 in Schedule III of notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017).

3. Applicability of GST on by-products of milling of Dal/Pulses such as Chilka, Khanda and Churi/Chuni:

3.1 Representations have been received seeking clarification regarding the applicable GST rate on by-products of milling of Dal/Pulses such as Chilka, Khanda and Churi/Chuni.

3.2 The GST council in its 48th meeting has recommended to fully exempt the supply of subject goods, irrespective of its end use. Hence, with effect from the 1st January, 2023, the said goods shall be exempt under GST vide S. No. 102C of schedule of Notification No. 2/2017-Central Tax (Rate) dated 28-06-2017.

3.3 Further, as per recommendation of the GST Council, in view of genuine doubts regarding the applicability of GST on subject goods, matters that arose during the intervening period are hereby regularized on "as is" basis from the date of issuance of Circular No. 179/11/2022-GST dated the 3rd August, 2022, till the date of coming into force of the above-said S. No. 102C and the entries relating thereto. This is in addition to the matter regularized on as is basis vide para 8.6 of the said Circular.

4. Clarification regarding 'Carbonated Beverages of Fruit Drink' or 'Carbonated Beverages with Fruit Juice':

4.1 Representations have been received seeking clarification regarding the applicable six-digit HS code for 'Carbonated Beverages of Fruit Drink' or 'Carbonated Beverages with Fruit Juice'.

4.2 On the basis of the recommendation of the GST council in its 45th meeting, a specific entry has been created in notification No. 1/2017-Central Tax (Rate), dated the 28th June, 2017 and Notification No. 1/2017-Compensation Cess (Rate), dated the 28th June, 2017, *vide* S. No. 12B in Schedule IV and S. No. 4B in Schedule respectively, with effect from the 1st October, 2021, for goods with description 'Carbonated Beverages of Fruit Drink' or 'Carbonated Beverages with Fruit Juice'.

4.3 It is hereby clarified that the applicable six-digit HS code for the aforesaid goods with description 'Carbonated Beverages of Fruit Drink' or 'Carbonated Beverages with Fruit Juice' is HS 2202 99. The said goods attract GST at the rate of 28% and Compensation Cess at the rate of 12%. The S. Nos. 12B and 4B mentioned in Para 4.2 cover all such carbonated beverages that contain carbon dioxide, irrespective of whether the carbon dioxide is added as a preservative, additive, etc.

4.4 In order to bring absolute clarity, an exclusion for the above-said goods has been provided in the entry at S. No. 48 of Schedule-II of Notification No. 1/2017-Central Tax (Rate) dated 28th June, 2017, *vide* Notification No. 12/2022-Central Tax (Rate) dated the 30th December, 2022.

5. Applicability of GST on snack pellets manufactured through extrusion process (such as 'fryums'):

5.1 Representations have been received seeking clarification regarding classification and applicable GST rate on snack pellets manufactured through the process of extrusion (such as 'fryums').

5.2 It is hereby clarified that the snack pellets (such as 'fryums'), which are manufactured through the process of extrusion, are appropriately classifiable under tariff item 1905 90 30, which covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the rate of 18% *vide* S. No. 16 of Schedule-III of Notification No. 1/2017-Central Tax (Rate) dated the 28th June, 2017.

6. Applicability of Compensation cess on Sports Utility Vehicles (SUVs):

6.1 Representations have been received seeking clarification about the specifications of motor vehicles, which attract compensation cess at the rate of 22% *vide* entry at S. No. 52B of Notification No. 01/2017 Compensation Cess (Rate) dated 28th June, 2017.

6.2 In this regard, it is clarified that Compensation Cess at the rate of 22% is applicable on 'Motor vehicles, falling under heading 8703, which satisfy all four specifications, namely:- these are popularly known as SUVs; the engine capacity exceeds 1,500 cc; the length exceeds 4,000 mm. and the ground clearance is 170 mm. and above.

6.3 This clarification is confined to and is applicable only to Sports Utility Vehicles (SUVs).

7. Applicability of IGST rate on goods specified under notification No. 3/2017-Integrated Tax (Rate):

7.1 Representations have been received expressing doubts regarding the applicable IGST rate on goods specified in the list annexed to notification No. 3/2017-Integrated Tax (Rate) dated the 28th June, 2017.

7.2 On the basis of the recommendation of the GST Council in its 47th Meeting, held in June, 2022, the IGST rate has been increased from 5% to 12% on goods, falling under any Chapter, specified in the list annexed to the notification No. 3/2017-Integrated Tax (Rate) dated the 28th June, 2017, when imported for the specified purpose (like Petroleum operations/Coal bed methane operations) and subject to the relevant conditions prescribed in the said notification. However, some goods specified in the list annexed to notification No. 3/2017-Integrated Tax (Rate) dated the 28th June, 2017, are also eligible for a lower schedule rate of 5% by virtue of their entry in Schedule I of notification No. 1/2017-Integrated Tax (Rate) dated the 28th June, 2017.

7.3 Accordingly, it is hereby clarified that on goods specified in the list annexed to the notification No. 3/2017-Integrated Tax (Rate) dated the 28th June, 2017, which are eligible for IGST rate of 12% under the said notification and are also eligible for the benefit of lower rate under Schedule I of the notification No. 1/2017-Integrated Tax (Rate) dated the 28th June, 2017 or any other IGST rate notification, the importer can claim the benefit of the lower rate.

8. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board.

(Dibyalok), Technical Officer, TRU-I.

No. CCT/26-4/2022-23/F/3307

Subject: Clarifications regarding applicability of GST on certain services—reg.

Ref.: Circular No. 190/02/2023-GST dated 13th January, 2023 issued under Central Goods and Services Tax Act, 2017 by the GST Policy Wing, Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, GOI, New Delhi.

Circular

(No. 21/2022-23-GST)

Central Board of Indirect Taxes and Customs (CBIC) has issued the above referred circular. For the uniformity, it has been decided that the said Circular issued by the CBIC is being made applicable, *mutatis mutandis*, in implementation of the Goa GST Act, 2017. Copy of the referred CBIC Circular is attached herewith.

This Trade Circular is clarificatory in nature. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the undersigned.

S. S. Gill, IAS, Commissioner of State Taxes.

Panaji, 7th February, 2023.

Circular No. 190/02/2023-GST

F. No. CBIC-190354/316/2022-TRU Section-CBEC

Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)
North Block New Delhi

Dated the 13th January, 2023.

To,

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/Commissioner of Central Tax (All)/The Principal Director Generals//Director Generals (All).

Subject: Clarifications regarding applicability of GST on certain services—reg.

Madam/Sir,

Representations have been received seeking clarifications on the following issues:

1. Applicability of GST on accommodation services supplied by Air Force Mess to its personnel;
2. Applicability of GST on incentive paid by Ministry of Electronics and Information Technology (MeitY) to acquiring banks under Incentive scheme for promotion of RuPay

Debit Cards and low value BHIM-UPI transactions.

The above issues have been examined by GST Council in the 48th meeting held on 17th December, 2022. The issue-wise clarifications are given below:

2. Applicability of GST on accommodation services supplied by Air Force Mess to its personnel:

2.1 Reference has been received requesting for clarification on whether GST is payable on accommodation services supplied by Air Force Mess to its personnel.

2.2 All services supplied by Central Government, State Government, Union Territory or local authority to any person other than business entities (barring a few specified services such as services of postal department, transportation of goods and passengers etc.) are exempt from GST vide Sl. No. 6 of notification No. 12/2017-Central Tax (Rate) dated 28-06-2017. Therefore, as recommended by the GST Council, it is hereby clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Sl. No. 6 of Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.

3. Applicability of GST on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions:

3.1 Representations have been received requesting for clarification on whether GST is applicable on the incentive paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions.

3.2 Under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions, the Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to Rs. 2000/-.

3.3 The Payments and Settlements Systems Act, 2007 prohibits banks and system providers from charging any amount from a person making or receiving a payment through RuPay Debit cards or BHIM-UPI.

3.4 The service supplied by the acquiring banks in the digital payment system in case of transactions through RuPay/BHIM UPI is the same as the service that they provide in case of transactions through any other card or mode of digital payment. The only difference is that the consideration for such services, instead of being paid by the merchant or the user of the card, is paid by the Central Government in the form of incentive. However, it is not a consideration paid by the Central Government for any service supplied by the acquiring bank to the Central Government. The incentive is in the nature of a subsidy directly linked to the price of the service and the same does not form part of the

taxable value of the transaction in view of the provisions of Section 2(31) and Section 15 of the CGST Act, 2017.

3.5 As recommended by the Council, it is hereby clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

4. Difficulties, if any, in implementation of this circular may be brought to the notice of the Board.

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